

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.196 OF 1998

SHRI KANTIBHAI G PARMAR

VERSUS

THE STATE OF GUJARAT & ORS.

Appearance:

MR CB DASTOOR for the Petitioner

CORAM: MR.JUSTICE S.K.KESHOTE

Date of Order:03/02/1998

C.A.V. ORDER

Heard learned counsel for the parties.

2. Challenge has been made by petitioner to the order dated 18.11.97 of the District Primary Education Officer, District Education Committee, Mehsana, under which the petitioner was ordered to be transferred from Indrapura Primary School to Solaiya Primary School. The petitioner, in para 3.5 of the Special Civil Application, stated that the said transfer order has not been served upon the petitioner but curiously enough, a copy of the said order has been produced on record of the Special Civil Application as annexure 'E'. This way of taking of things creates suspension in the mind of the Court. It is a clear case where the petitioner is knowing the order of his transfer as well as he has a copy of the order, but still he has come up with the case that the said order has not been served. When the petitioner has known the order and he has copy of the said order then it is as good as serving of the said order upon the petitioner. Be that as it may, the transfer of an officer or employee of the Government or District Panchayat can be taken under judicial scrutiny of this Court only on two counts, namely, if the order has been passed malafide and where the order has been passed in violation of some statutory provisions. After going through the Special Civil Application, I do not find anything on the record that the petitioner has even alleged any case of malafide. It is also not the case of petitioner that the transfer order of the petitioner has been made in violation of

some statutory provisions. The only grievance of the petitioner seems to be is that his wife is required to be operated, but how far it has any relevance to the transfer of the petitioner. The petitioner, if has some inconvenience of this transfer, then the only course for him is to approach the higher authorities and they will consider the same, looking to the administrative exigencies. In view of the decision of the Apex Court in the case of Union of India v. S.L.Abbas, reported in JT 1993(3) SC 748, this petition is not maintainable and no interference in the order of transfer is called for. The Special Civil Application is dismissed summarily.

(S.K.Keshote, J)

(sunil)